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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

FILED  
2009 APR 28 PM 12:17  
U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
KNH

UNITED STATES OF AMERICA,

Plaintiff,

v.

Rosalio GUTIERREZ-Rosales,

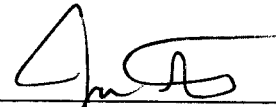
Defendant

) Magistrate Docket No.  
)  
) **08 MJ 1317**  
)  
) COMPLAINT FOR VIOLATION OF:  
)  
) Title 8, U.S.C., Section 1326  
) Deported Alien Found in the  
) United States  
)  
)  
)

The undersigned complainant, being duly sworn, states:


On or about **April 26, 2008** within the Southern District of California, defendant, **Rosalio GUTIERREZ-Rosales**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



SIGNATURE OF COMPLAINANT  
James Trombley  
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **28th** DAY OF **APRIL, 2008**



Nita L. Stormes  
UNITED STATES MAGISTRATE JUDGE

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**CONTINUATION OF COMPLAINT:**  
**Rosalio GUTIERREZ-Rosales**

**PROBABLE CAUSE STATEMENT**

On April 26, 2008, Border Patrol Agent E. Velazquez was patrolling near Dulzura, California. This area is approximately twelve miles east of the Otay Mesa, California Port of Entry and five miles north of the United States/Mexico International Boundary.

At approximately 8:00 p.m., Agent Velazquez responded to an observation by Border Patrol Agent M. Schilf who was operating a night scope, of ten individuals running on a trail. Agent Velasquez was directed to the area by Agent Schilf. Agent Velazquez approached the group and identified himself as a United States Border Patrol Agent. He then conducted an Immigration field interview on all ten subjects. All ten subjects, including one later identified as the defendant **Rosalio GUTIERREZ-Rosales**, admitted to being citizens and nationals of Mexico present in the United States without proper immigration documents that would allow them to enter or remain in the United States legally. At approximately 9:30 p.m., all subjects were arrested and transported to the Brown Field Border Patrol Station for further processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **January 9, 2008** through **San Ysidro, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.